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HOUSE BILL 2489

By Head

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 15, Title 12, Chapter 4 and Title 56, Chapter 15 relative to demand on surety bonds relating to public contracts and sureties of public contracts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 12, Chapter 4, Part 2 is amended by added the following as a new section:

12-4-209.

(a) In the event demand is made on a surety bond, the surety shall respond to said demand within thirty (30) days of receipt of the demand. If payment of the demand is withheld the surety shall deposit the amount of the demand in an escrow account with the state treasurer within 10 days of notice of the refusal. Such escrow account shall be maintained and invested by the treasurer as a state asset until the latter of either one (1) year from the date of deposit or, if an action is brought to enforce the demand, a final order is entered directing the treasurer to pay such monies to the prevailing party. The treasurer shall pay interest at the same rate that interest is paid on funds invested in a local

government investment pool established pursuant to § 9-4-704 for the period such funds are held.

SECTION 2. Tennessee Code Annotated, § 4-15-102(f) is amended by adding the following as a new subsection (3) and redesignating the existing subsection (3) accordingly:

(3) Demand on such bond shall be made in writing, by return receipt registered mail, delivered to the surety. The surety shall be subject to the requirements of §12-4-209.

SECTION 3. Tennessee Code annotated, § 56-15-113 is amended by deleting the section in its entirety and by substituting instead the following:

56-15-113. Any company which executes or guarantees any recognizance, stipulation, bond or undertaking under the provisions of this chapter shall be estopped, in any proceeding to enforce the liability which it has assumed to incur, to deny its corporate power to execute or guarantee such instrument or assume such liability regardless of whether or not the principal failed to perform. If the recognizance, stipulation, bond or undertaking under the provisions of this chapter is relating to public contract, the liability shall be paid into an escrow account pursuant to the provisions of Section 12-4-209.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.